

Chairman Vap called the regularly scheduled meeting to order at 10:04 a.m. with Commissioners Boyle, Lowell Johnson, and Vap present, Commissioners Rod Johnson and Landis Excused.

#### GENERAL ADMINISTRATION

Notice was duly published January 18, 2005, on Page 7 of The Daily Record that the regular public meeting of the Commissioners of the Nebraska Public Service Commission would be held January 25, 2005, at 10:00 a.m. in the Commission Hearing Room, 300 The Atrium, 1200 N Street, Lincoln.

Attention was called to the following proceedings:

#### Tuesday, January 25, 2005:

C-3277/  
PI-88  
3:00      Video Hearing. Commission Library, Lincoln; City Hall, 1615 1<sup>st</sup> Avenue, South Sioux City; and Nebraska State Office Building, Room 207, 1313 Farnam Street, Omaha. In the Matter of the Commission, on its own motion, seeking comment on the request by United Way of the Midlands to be assigned the use of "211" for Dakota County to gain access to First Call for Help (FCFH), a comprehensive information and referral service. Commissioner Rod Johnson presiding as Hearing Officer.

#### Wednesday, January 26, 2005:

TR-139  
8:30      Video Hearing. Commission Library, Lincoln, City Hall, 1615 1<sup>st</sup> Avenue, South Sioux City; and Nebraska State Office Building, Room 207, 1313 Farnam on the Mall, Omaha. In the Matter of Servant Cab Company, dba Yellow Cab Company and Checker Cab Company, Lincoln, seeking authority to adjust its rates and charges. Commissioner Vap presiding as Hearing Officer.

#### Monday, January 31, 2005:

FC-1319  
2:00      Commission Library, Lincoln. Status Conference. In the Matter of Kinder Morgan, Inc., Lakewood, Colorado, vs. City of Hastings, Hastings, alleging installation of duplicative and redundant natural gas piping and services in the City of Hastings and its environs. Commissioner Rod Johnson presiding as Hearing Officer. Call in number is 402-472-6296.

COMMUNICATIONS DEPARTMENT

C-3318 In the Matter of Z-Tel Communications, Inc., Winter Park, Florida, seeking authority to change its name to Trinsic Communications, Inc: Motion made by Commissioner Lowell Johnson, seconded by Commissioner Anne Boyle, to enter an order granting the application. Motion passed with Commissioners Anne Boyle, Lowell Johnson, and Jerry Vap voting AYE, Commissioners Rod Johnson and Frank Landis Excused Not Voting.

C-3321 In the Matter of Deltel, Inc., Newport Beach, California, seeking authority to operate as an interexchange carrier of telecommunications services within the State of Nebraska: Motion made by Commissioner Anne Boyle, seconded by Commissioner Lowell Johnson, to enter an order granting the application. Motion passed with Commissioners Anne Boyle, Lowell Johnson, and Jerry Vap voting AYE, Commissioners Rod Johnson and Frank Landis Excused Not Voting.

C-3322 In the Matter of Qwest Corporation, Denver, Colorado, seeking approval of its Line-Sharing Exit Amendment to the Wireline Interconnection Agreement with Sprint Communications Company L.P., Overland Park, Kansas: Motion made by Commissioner Lowell Johnson, seconded by Commissioner Anne Boyle, to enter an order granting the application. Motion passed with Commissioners Anne Boyle, Lowell Johnson, and Jerry Vap voting AYE, Commissioners Rod Johnson and Frank Landis Excused Not Voting.

C-3325 In the Matter of Z-Tel Communications, Inc., Winter Park, Florida, seeking authority to use the trade name Trinsic Communications, Inc: Motion made by Commissioner Anne Boyle, seconded by Commissioner Lowell Johnson, to enter an order granting the motion to withdraw and dismiss the application. Motion passed with Commissioners Anne Boyle, Lowell Johnson, and Jerry Vap voting AYE, Commissioners Rod Johnson, and Frank Landis Excused Not Voting.

C-3337 In the Matter of the Commission, on its own motion, seeking to determine the surcharge for the statewide telecommunications relay system to be effective July 1, 2005. Commissioner Jerry Vap presiding as Hearing Officer: Motion made by Commissioner Lowell Johnson, seconded by Commissioner Anne Boyle, to enter an order opening the docket and scheduling a video hearing for March 9, 2005, at 10:00 a.m. in the Commission Library, Lincoln; Hastings Library, 2nd Floor, 517 West 4th Street, Hastings; and Nebraska State Office Building, Room 207, 1313 Farnam Street, Omaha. Motion passed with Commissioners Anne Boyle, Lowell Johnson, and Jerry Vap voting AYE, Commissioners Rod Johnson and Frank Landis Excused Not Voting.

Don Gray provided a report on numbering issues.

COMMUNICATIONS DEPARTMENT (Cont.)

C-3338/ In the Matter of the Commission, on its own motion, seeking  
PI-91 to conduct an investigation into the possible impacts of  
implementing a nationwide overlay of a single area code  
dedicated to the Department of the Navy with local dialing from all  
existing exchanges to all exchanges within the new area code. Commis-  
sioner Anne Boyle presiding as Hearing Officer: Motion made by Com-  
missioner Lowell Johnson, seconded by Commissioner Anne Boyle, to  
enter an order opening the docket. Motion passed with Commissioners  
Anne Boyle, Lowell Johnson, and Jerry Vap voting AYE, Commissioners  
Rod Johnson and Frank Landis Excused Not Voting.

C-3327/ In the Matter of the Commission, on its own motion, seeking  
PI-90 comment on the request by United Way of the Midlands to be  
assigned the use of "211" for Adams, Clay, Nuckolls and  
Webster Counties to gain access to First Call for Help (FCFH), a com-  
prehensive information and referral service. Commissioner Rod Johnson  
presiding as Hearing Officer: A video hearing was scheduled for  
March 9, 2005, at 10:30 a.m. in the Commission Library, Lincoln;  
Hastings Library, 2nd Floor, 517 West 4th Street, Hastings; and  
Nebraska State Office Building, Room 207, 1313 Farnam Street, Omaha.

Gene Hand reported on the US District Court's Opinion,  
Order and Judgment in Docket #4:03CV3393, entered January 20, 2005,  
which is the appeal of the Commission approved interconnection  
agreement between Western Wireless and Great Plains Communication.

UNIVERSAL SERVICE FUND

NUSF-37.49 In the Matter of Jeffrey L. Pursley, Director, Nebraska  
Universal Service Fund Department, Complainant, vs. Global-  
com, Inc.: Motion made by Commissioner Lowell Johnson, seconded by  
Commissioner Anne Boyle, to enter an order to dismiss the complaint.  
Motion passed with Commissioners Anne Boyle, Lowell Johnson, and Jerry  
Vap voting AYE, Commissioners Rod Johnson and Frank Landis Excused Not  
Voting.

Jeff Pursley reported on Late-Filed Carrier Remittances:  
Motion made by Commissioner Lowell Johnson, seconded by Commissioner  
Anne Boyle, to levy a late fee against American Farm Bureau, Inc.,  
Benkelman Telephone Company, BW Telephone Company, Hartman Telephone  
Exchange, Talk America, Inc., Wauneta Telephone Company and that a  
complaint be filed against T-Netix, Inc. Motion passed with Commis-  
sioners Anne Boyle, Lowell Johnson, and Jerry Vap voting AYE, Commis-  
sioners Rod Johnson and Frank Landis Excused Not Voting.

Jeff Pursley discussed setting a minimum administrative  
fine for late-filed carriers of 1.00 per occurrence. The Commission  
directed Mr. Pursley to develop a proposal setting a higher minimum  
amount.

UNIVERSAL SERVICE FUND (Cont.)

Jeff Pursley reported on a summary of HR-214, regulating Voice Over Internet Protocol (VOIP). The Commission authorized the staff to contact members of the Nebraska Congressional Delegation to discuss this bill.

Jeff Pursley reported on an Oregon bill regarding broadband assessment and eligible telecommunications carrier (ETC).

NATURAL GAS DEPARTMENT

NG-0007.1 In the Matter of the Tariff for natural gas service available in the entire territory served by Aquila, Inc., d/b/a Aquila Networks - Nebraska, filed December 22, 2004: Motion made by Commissioner Anne Boyle, seconded by Commissioner Lowell Johnson, to enter an order suspending proposed tariff changes, granting Petition for Formal Intervention filed by Public Advocate on January 19, 2005, and issuing notice of assessment. Motion passed with Commissioners Anne Boyle, Lowell Johnson, and Jerry Vap voting AYE, Commissioners Rod Johnson and Frank Landis Excused Not Voting.

NG-0023.1 In the Matter of Kinder Morgan, Inc., Lakewood, Colorado, seeking to implement supply cost adjustment rate schedules applicable to Nebraska Rate Schedules CGS (Choice Gas Service), ACGS-NSS (Agricultural Choice Gas Service Non-Seasonal Service), and ACGS-SS (Agricultural Choice Gas Service Seasonal Service): Laura Demman discussed the filing received outlining the Plan of Action regarding 2005 Annual Gas Supply Cost Adjustment; Adjustment Associated with Other Services Charge; Applicable to Nebraska Rate Schedules CGS (Choice Gas Service), and ACGS-SS (Agricultural Choice Service Seasonal Service) and Kinder Morgan's request for approval filed January 18, 2005.

RULES AND REGULATIONS

Rule and Regulation #163 In the Matter of the Commission, on its own motion, seeking to promulgate Title 291, Chapter 14, Recreational Vehicles Rules and Regulations, previously written under Title 178, Chapter 15, through Health and Human Services and to adopt current plan review and construction standards; create an ad hoc committee; correct technical errors, grammar, punctuation, spelling, sequential numbering and the like; and reprint the chapter in its entirety: Motion made by Commissioner Anne Boyle, seconded by Commissioner Lowell Johnson, to enter a Certificate of Adoption. The rules were previously rejected by the Attorney General's Office due to a statutory ruling. Motion passed with Commissioners Anne Boyle, Lowell Johnson, and Jerry Vap voting AYE, Commissioners Rod Johnson and Frank Landis Excused Not Voting.

## LEGISLATIVE REPORT

The staff advised the Commission on the following legislation:

- The hearing on LB 14 is scheduled for today at 1:30 and that Commissioner Vap would be providing testimony in support of the bill.
- LB157, LB247, LB516, and LB742 are scheduled for hearing on January 31, 2005.
- LB52 has been amended to include amended language from LB222 that would give the Commission discretion to waive the criminal background check for grain warehouses and dealers if they had previously undergone a background check and received a license from another agency.
- The staff provided proposed fiscal notes to the Commission for LB14 and LB458.
- The staff recommended that the Commission take a neutral position with respect to Natural Gas service territory Bills, LB48, LB135, LB384, LB 414, and LB 748; Telecommunications Bills, LB136, LB157, LB645, and LB722; and a bill relating to railroad safety, LB742.
- The staff further recommended that the Commission support grain Bill LB52 and oppose LB222 as introduced.

Upon agreement of all Commissioners present, the Commission voted to adopt the positions recommended by the staff.

## GRAIN WAREHOUSE DEPARTMENT

GWC-396      In the Matter of John A. Fecht, Director, Grain Warehouse,  
GW-1599      Complainant v. Alvo Grain and Feed, Inc., Alvo, Defendant:  
                Motion made by Commissioner Lowell Johnson, seconded by  
Commissioner Anne Boyle, to enter an Order to Show Cause and schedule  
a hearing on March 29, 2005, at 2:00 p.m. in the Commission Hearing  
Room, Lincoln. Motion passed with Commissioners Anne Boyle, Lowell  
Johnson, and Jerry Vap voting AYE, Commissioners Rod Johnson and  
Frank Landis Excused Not Voting.

GW-2155      In the Matter of Travelers Casualty and Surety of America  
                seeking cancellation of its Continuous Public Grain Ware-  
house Bond No. 103317908 in the amount of \$27,800.00, issued on  
behalf of Bauman Livestock Feed & Supply, Inc., Martell: The bond was  
cancelled effective November 29, 2004.

John Fecht discussed examination reminder letters and the possibility of fines being assessed: The Commission asked for further study from the Commission staff.

John Fecht informed the Commission that there is one grain warehouse license that has not been issued due to background check.

GRAIN WAREHOUSE DEPARTMENT (Cont.)

Grain Dealer Division

GW-2155 In the Matter of Travelers Casualty and Surety of America, seeking cancellation of its Continuous Grain Dealer Bond 103827181 in the amount of \$35,000.00, issued on behalf of Bauman Livestock Feed & Supply, Inc., Martell: The bond was cancelled effective November 29, 2004.

John Fecht informed the Commission that there are seven grain dealer licenses that have not been issued due to background checks.

TRANSPORTATION DEPARTMENT

Rate Division

MR-930 In the Matter of Movers and Warehouse Division, Nebraska Motor Carriers Association, Lincoln, seeking authority to establish a fuel surcharge in Nebraska Official Household Goods Tariff 7-F: The fuel surcharge was retained at 40 cents per mile and the taxi surcharge at 34 cents per trip.

GENERAL ADMINISTRATION

Motion made by Commissioner Lowell Johnson, seconded by Commissioner Anne Boyle, to approve the following invoices. Motion passed with Commissioners Anne Boyle, Lowell Johnson, and Jerry Vap voting AYE, Commissioners Rod Johnson and Frank Landis Excused Not Voting.

Larry Fauss	\$	800.00
Kelly Services		700.00
Kelly Services		643.13

NEBRASKA EQUIPMENT DISTRIBUTION PROGRAM

A.G.N. Sales	444.10
Aksarben TDD Service	1,823.50
Associated Hearing Health Care	626.60
Bosler Hearing Aid Center	991.14
Harris Communications	862.90
Hearing Aid Specialists	453.95
Hearing Clinic Inc	215.00
Carl A. Johnson	2,900.20
K-D Communications	3,927.40
Professional Hearing Aid Specialists	1,604.70
Sherard Hearing Aid Center	2,034.70
Teltex	195.40
Weitbrecht Communications	5,099.10

GENERAL ADMINISTRATION (Cont.)

Upon agreement of all Commissioners present, authorization was granted for Commissioner Rod Johnson to attend the Qwest Regional Oversight Committee Meeting to be held in Scottsdale, Arizona, on March 13-14, 2005.

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The meeting adjourned at 10:56 a.m. with Commissioners Boyle, Lowell Johnson, and Vap present, Commissioners Rod Johnson, and Landis Excused. The next regularly scheduled meeting will be held on February 1, 2005, at 10:00 a.m. with an agenda to be available in the office of the Executive Director at 10:00 a.m. on January 31, 2005.

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Chairman

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Executive Director